



Legislative Fiscal Bureau

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March 14, 2012

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Corrections: Section 13.10 Request for Overtime Funding from the Joint Committee on Finance Supplemental Appropriation and for Transfer of Funding Between Appropriations -- Agenda Item III

REQUEST

On February 27, 2012, the Department of Corrections submitted a s. 13.10 request for the transfer of \$9,273,200 GPR from the Joint Committee on Finance's supplemental appropriation [s. 20.865(4)(a)] to the Department's general program operations appropriation [s. 20.410(1)(a)] for overtime funding in 2011-12.

The Department additionally requests the transfer of \$15,738,700 GPR from various appropriations to its general program operations appropriation to address an anticipated deficit by the end of 2011-12. The requested transfers include: (a) \$6,945,700 from the services for drunken driving offenders appropriation [s. 20.410(1)(bd)]; (b) \$5,700,000 from the corrections contracts and agreements appropriation [s. 20.410(1)(ab)]; and (c) \$3,093,000 from the fuel and utilities appropriation [s. 20.410(1)(f)].

ANALYSIS

A. Overtime

The Governor's 2011-13 biennial budget recommendations included \$38,889,400 GPR and \$2,876,900 PR annually for the Department of Corrections for overtime salary and fringe benefits. Balancing concerns related to: (a) increases in correctional overtime costs in recent years; (b) increased use of surplus positions to contain overtime; (c) a May, 2011, letter report from the Legislative Audit Bureau recommending monitoring overtime costs; (d) providing sufficient funds to cover overtime costs; (d) the unknown impact of changes to collective bargaining provisions;

and (e) the overall fiscal concerns of the state, the Legislature placed \$9,273,200 GPR and \$820,500 PR annually from the overtime funding in the Joint Committee on Finance's supplemental appropriation. As such, the Department would need to return to the Committee to request release of the additional funding and provide the Committee with the opportunity to review the Department's overtime expenditures and efforts to contain costs.

Corrections currently estimates that 2011-12 overtime expenditures will total \$42.9 million GPR for salary and fringe benefits. The Department is requesting release of the \$9,273,200 GPR and indicates that expenditures for overtime in 2011-12 are at a record high as a result of "a current vacancy rate of over 5.0% for security staff due to an influx of retirements." Subsequent to release of funding, the Department's overtime funding would be \$38.9 million GPR (the remaining \$4 million would need to be funded from compensation plan supplements). Further, the request states:

"Although the Department anticipates a reduction in overtime costs due to the changes in the Compensation Plan, those provisions have either just been or will be implemented at the end of February. The full impact of those changes will be apparent during FY13, but the changes come too late in FY12 to reduce overtime costs sufficiently to not require the funding in the JCF's supplemental appropriation."

Typically, compensation plan supplements are requested by the Department of Administration and approved by the Committee annually in June, based on actual expenditures through April. Given that compensation plan requests have not yet been submitted, and due to the uncertainty of what will be provided in the compensation plan, the Committee may wish to delay action on the Department's request for overtime until the time compensation plan supplements are decided. At that time, how much Corrections will receive will be known and, thus, any needed additional funding for overtime could be provided. [Alternative A2]

B. Transfer Funding Between Appropriations

The Department requests the transfer of \$15,738,700 GPR from various appropriations to its general program operations appropriation to address an anticipated deficit by the end of 2011-12. The requested transfers include: (a) \$6,945,700 from the services for drunken driving offenders appropriation [s. 20.410(1)(bd)]; (b) \$5,700,000 from the corrections contracts and agreements appropriation [s. 20.410(1)(ab)]; and (c) \$3,093,000 from the fuel and utilities appropriation [s. 20.410(1)(f)].

The 2011-13 biennial budget, Act 32, deleted \$22,701,100 GPR from Corrections' budget in 2011-12 related to a projected decline of 1,208 inmates in the adult prison populations (an additional \$29,954,800 GPR was deleted related to a projected decline of 1,593 inmates in 2012-13). However, the Department indicates that the male prison population has not declined as projected in the budget. Act 32 estimated an average daily population of 20,385 males in 2011-12, while the actual male population at the end of February, 2012, was 20,715. Regarding the funding reductions, although the deleted funding amounts were calculated based on the current daily contract rate of \$51.46, the majority of the funding was removed from the Department's general program operations appropriation, not its contract bed appropriation. However, variable inmate

costs budgeted in the general program operations appropriation - including food costs, inmate health care, and variable non-food costs (such as clothing, laundry, wages, and other supplies) - total approximately \$14 per day, compared to \$51.46. As a result, the budgeted deletion of \$22,701,100 has not materialized. The Department estimates expenditures by the end of 2011-12 of \$708.6 million GPR in its general program operations appropriation, with \$690.3 million budgeted, a difference of -\$18.3 million.

In order to address the anticipated deficit within existing resources, the Department identified \$15.7 million GPR in available funding from three other appropriations:

a. \$6,945,700 GPR from Services for Drunken Driving Offenders [s. 20.410(1)(bd)]. Under 2009 Act 100, a new appropriation was created for Corrections to provide community probation supervision, fund a monitoring center, and provide enhanced community treatment for persons convicted of a 2nd or 3rd offense related to driving while intoxicated. The appropriation is funded \$8,932,900 GPR in 2011-12 for an estimated population of 2,015, however Corrections indicates that due to time delays and sentencing practices, the population has been more limited and growing slowly. There were 558 second or third offense cases in July, 2011, and 1,053 cases as of January, 2012. As a result, the Department indicates that \$7,345,700 GPR is available in the appropriation (\$500,000 GPR from the appropriation was approved as part of the agency's lapse requirement under 2011 Act 32).

b. \$5,700,000 GPR from Corrections Contracts and Agreements [s. 20.410(1)(ab)]. Although the male prison population has not declined as projected in the 2011-13 biennial budget, the female prison population is actually lower than projected in the budget. While the average daily population for females was projected to be 1,208 in 2011-12, the average daily population has been 1,158. As a result, in an effort to address institutional budget expenditures, Corrections converted the correctional center John C. Burke in Waupun from a female facility to a male facility, enabling the Department to utilize fewer contract beds and generate savings.

c. \$3,093,000 GPR from fuel and utilities [s. 20.410(1)(e)]. Due to a mild winter, the Department has been able to save on fuel and utility costs.

The Department has indicated:

"Besides the deficit in FY12, the Department's institutions are also experiencing a cash flow problem with not having enough funds to pay vendors, especially those that provide food to the institutions. It is critical that this request be processed during this quarterly 13.10, otherwise the Department will not be able to pay bills and there is likely to be numerous call to elected officials and would also incur prompt payment penalties. It is for this reason the Department submitted this request now instead of waiting until the next 13.10."

Based on Corrections anticipated expenditures in 2011-12, if the above funding were transferred to the general program operations appropriation, a deficit of \$2.6 million would still remain. The Department indicates it will hold vacancies open and pursue other options in order to generate savings in the appropriation. The Committee may wish to approve the Department's

request to transfer \$15,738,700 GPR from the appropriations to address the anticipated deficit in its general program operations appropriation. [Alternative B1]

Alternatively, it should be noted that compensation plan supplements have not yet been estimated, and with four months remaining in 2011-12, fiscal year expenditures may vary from the current estimate. Further, through February, 2012, the Department's overall general program operations appropriation has expended 71.3% of the appropriated budget authority of \$690.3 million. Although Corrections anticipates a deficit by the end of the fiscal year, based on current expenditure patterns, current appropriated funding would support operations through May, 2012. As a result, the Committee may wish to delay action on the request at this time and instead transfer the identified GPR savings to its supplemental appropriation. Once compensation plan supplements are known and specific deficit amounts can more precisely be determined, Corrections could return for release of funds. [Alternative B2]

ALTERNATIVES

A. Overtime

1. Approve the Department's request to transfer \$9,273,200 GPR from the Joint Committee on Finance's supplemental appropriation [s. 20.865(4)(a)] to the Department's general program operations appropriation [s. 20.410(1)(a)] for overtime funding.

2. Take no action. [Under this alternative, action would be delayed until the time when the pay plan supplement is known.]

B. Transfer Funding Between Appropriations

1. Approve the Department's request to transfer \$15,738,700 GPR from various appropriations to its general program operations appropriation to address an anticipated deficit by the end of 2011-12. The requested transfers include: (a) \$6,945,700 from the services for drunken driving offenders appropriation [s. 20.410(1)(bd)]; (b) \$5,700,000 from the corrections contracts and agreements appropriation [s. 20.410(1)(ab)]; and (c) \$3,093,000 from the fuel and utilities appropriation [s. 20.410(1)(f)].

2. Modify the Department's request and transfer \$15,738,700 GPR from its various appropriations to the Joint Committee on Finance's supplemental appropriation [s. 20.865(4)(a)] for possible future release. The funding amounts to be transferred include: (a) \$6,945,700 from the services for drunken driving offenders appropriation [s. 20.410(1)(bd)]; (b) \$5,700,000 from the corrections contracts and agreements appropriation [s. 20.410(1)(ab)]; and (c) \$3,093,000 from the fuel and utilities appropriation [s. 20.410(1)(f)].

3. Deny the request.

Prepared by: Chris Carmichael